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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,385

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M. Kelly Lalonde

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05/21/2009

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
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EXAMINER

ROSSOSHEK, YELENA

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: IGOR C. IVANOV, JONATHAN WEIGUO ZHANG, and
ARTUR KOLICS

Appeal No. 2008-0956
Application 10/668385
Technology Center 2800

Mailed: May 21, 2009

Before DALE M. SHAW *Chief Appeals Administrator.*

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences (BPAI) on November 16, 2007. A docketing notice was mailed to Appellants on November 12, 2007. A further review of the application has revealed that it is not ready for decision consideration by a BPAI judicial panel. Accordingly, the application is herewith being remanded to the Examiner to address the following matter.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed October 2, 2006 reveals that the claims in the Claims appendix of the Appeal Brief are not clear and are not consistent as amended in the last entered amendment filed on April 20, 2006. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, dependent claims 2, 3, 7-10, 12, 13, 17, 20-25, 27, 32, 35, 36, 40-42 as provided in the Brief's Claims Appendix, erroneously indicates that they have dependency on claim 0. Appropriate clarification of all the claims provided in the Claims Appendix is required.

CONCLUSION

Accordingly, it is

ORDERED that this application be remanded to the Examiner to:

- 1) to hold the Appeal Brief filed on October 2, 2006 defective;
- 2) notify Appellant to file a paper correcting the Claims Appendix of the Brief filed October 2, 2006
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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DMS/PEB

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